



THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

প্রাপ্ত কৰ্ত্তৃত্বৰ দ্বাৰা প্রকাশিত

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GOVERNMENT OF ASSAM
ORDERS BY THE GOVERNOR

POLITICAL (A) DEPARTMENT :::: DISPUR :::: GUWAHATI

NOTIFICATION

The 1st July, 2024

No.PLA-506375/565.- In exercise of the powers conferred under section 398 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (Act No. 46 of 2023), the Governor of Assam is hereby pleased to make the following Scheme for the State of Assam with a view to ensure protection of the witnesses.

Short title, extent and commencement	1. (a) This Scheme shall be called the Assam Witness Protection Scheme, 2024. (b) It shall extend to the whole of the state of Assam. (c) It shall come into force on the date of its publication in the Official Gazette.
Definitions	2. (a) "Act" means the Bharatiya Nagarik Suraksha Sanhita, 2023 (Act No.46 of 2023); (b) "Concealment of Identity of Witness" means and includes any condition prohibiting publication or revealing of in any manner, directly or indirectly, the name, address and other particulars which may lead to the identification of the witness during investigation, trial and post-trial stage; (c) "Competent Authority" means a Standing Committee in each District chaired by the District and Sessions Judge with the Head of the Police in the District as Member, an officer not below the rank of the Additional District Magistrate to be nominated by the District Magistrate as Member and The Head of the Prosecution in the District as the Member Secretary;

- (d) "Family Member" includes parents or guardian, spouse, live-in partner, siblings, children, grandchildren of the witness and the spouse of the siblings, children and grandchildren of the witness;
- (e) "Form" means the Witness Protection Application Forms appended to this Scheme;
- (f) "In Camera Proceedings" means proceedings wherein the Competent Authority or Court allows only those persons who are necessarily to be present while hearing and deciding the witness protection application or deposing in the court;
- (g) "Live Link" means and include a live video link or other such arrangement including any electronic communication through any audio - video electronic means;
- (h) "Witness Protection Measures" means the measures provided in clauses 7, 8, 9, 10 and 11 of the Scheme.
- (i) "Offence" means those offences which are punishable with death or life imprisonment or an imprisonment up to seven years and above and also offences punishable under sections 74, 75, 76, 77, 78 and 79 of the Bharatiya Nyaya Sanhita, 2023 (Act No. 45 of 2023);
- (j) "Threat Analysis Report" means the detailed report to be submitted by the Head of the Police in the District, investigating the case with regard to the seriousness and credibility of the threat perception to the witness or his family members. It shall contain specific details about the nature of threats faced by the witness or his family to their life, reputation or property apart from analyzing the extent, the person or persons making the threat who have the intent, motive and resources to implement the threats;
- (k) "Witness" means any person, who has made a statement or who has given or agreed to give evidence in relation to any offence and who possesses information or document about any offence by the Competent Authority as being material to any criminal proceeding or is required to be given protection or assistance under this scheme;
- (l) "Witness Protection Application" means an application submitted by a witness before a Competent Authority for Witness Protection Order. It can be moved either in offline or online mode by the witness, his family member, his duly engaged counsel or the Investigate getting officer or officer in charge or Circle Inspector or Deputy Superintendent or Additional Commissioner of Police or Sub-Divisional Police Officer or Jail Superintendent concerned;
- (m) "Witness Protection Fund" means the fund created for bearing the expenses incurred during the implementation of Witness Protection Order passed by the Competent Authority under this scheme to implement the witness protection measures;

- (n) "Witness Protection Order" means an order passed by the Competent Authority detailing with the witness protection measures to be taken;
- (o) "Witness Protection Cell" means a cell constituted at district level for implementation of the witness protection order, which shall be headed by the Superintendent of Police. Other suitable person(s) may be co-opted by the head of the cell;
- (p) "State Witness Protection Authority" means an authority constituted at the state level for witness protection consisting of the Senior-Most Secretary of Home and Political Department of Assam as Chairperson and Additional Director General of Police (CID), Assam, Additional Director General of Police, Special Branch and Head of the prosecution of the state of Assam as members. Any other member(s) may be co-opted by the authority. This authority shall regulate its own procedure, meet at least once in every six months and shall take all the steps as deemed necessary by it for the effective implementation and monitoring of the scheme.

Categories of witness as per threat perception

3. Category 'A': Where the threat extends to the life of a witness or his family members, during investigation or trial or thereafter.

Category 'B': Where the threat extends to safety, reputation or property of the witness or his family members, during the investigation or trial or thereafter.

Category 'C': Where the threat is moderate and extends to harassment or intimidation of the witness or his family member's reputation or property during the investigation or trial or thereafter.

State Witness Protection Fund

4. (1) There shall be a Fund namely, the Witness Protection Fund for incurring expenses during the implementation of the witness protection measures as per the Witness Protection Order passed by the Competent Authority and other related expenditure.

(2) The Witness Protection Fund shall comprise the following;

- (i) Budgetary allocation made in the Annual Budget by the State Government;
- (ii) Receipt of amount of costs imposed or ordered to be deposited by the Courts or Tribunals in the Witness Protection Fund;
- (iii) Donations or contributions from Philanthropist or Charitable Institutions or Organizations and individuals permitted by the Government.
- (iv) Funds contributed under the Corporate Social Responsibility.

Filing of Applications before the competent authority

(3) The said Fund shall be operated by the Additional Director General of Police (CID), Assam.

(4) There shall be a separate bank account for the state Witness Protection Fund.

5. The applicant shall file an application for seeking protection order under this scheme in the Form – I before the Competent Authority of the concerned District where the offence is committed, through its Member Secretary along with supporting documents, if any. It can be filed in offline as well as online mode.

Procedure for processing the application

6. (1) As and when an application is received by the Member Secretary of the Competent Authority, in the Form –I, he shall forthwith pass an order immediately calling for the Threat Analysis Report from the Assistant Commissioner of Police or Deputy Superintendent of Police in charge of the concerned Police Sub- Division.

(2) Depending upon the urgency in the matter owing to imminent threat, the Competent Authority may pass orders for interim protection of the witness or his family members during the pendency of the application:

Provided that nothing shall preclude police from providing immediate protection in case of grave and imminent threat to the life of applicant and his family members.

(3) On receipt of the order from the Competent Authority the Assistant Commissioner of Police or Deputy Superintendent of Police in charge of the Police sub division shall prepare the Threat Analysis Report in **Form-II** appended to these Scheme expeditiously while maintaining full confidentiality and it shall reach the Competent Authority through electronic means within five working days from the date of receipt of the order from the Competent Authority.

(4) The Threat Analysis Report shall categorise the threat perception and also include suggestive protection measures for providing adequate protection to the witness or his family.

(5) While processing the application for witness protection, the Competent Authority shall also interact either in person or through electronic means or a live link with the witness and or his family members or employers or any other person deemed fit so as to ascertain the witness protection needs of the witness. The Competent Authority may also conduct its meeting through live link. The Competent Authority shall meet at least once in every two months including a live link for attending such application of witness protection.

(6) All the hearings on Witness Protection Application shall be held in-camera by the Competent Authority while maintaining full confidentiality.

(7) An application shall be disposed of by the Competent Authority within five working days from the date of receipt of the Threat Analysis Report from the Police Authorities.

(8) The Witness Protection Order passed by the Competent Authority shall be implemented by the Witness Protection Cell or the Trial Court, as the case may be. Member Secretary of the Competent Authority shall cause to send a copy of the Witness Protection Order to the Investigation Officer of the case and to the court which is empowered to take the cognizance of the concerned case or to the court in which the trial is pending and to the public prosecutor of the case concerned. Overall responsibility of implementation of all Witness Protection Orders passed by the Competent Authority shall lie on the Head of the Police in the State. In case of any change of identity and or relocation of the Witness Protection Order, it shall be implemented by the Additional Director General of Police (CID), Assam.

(9) Upon passing of a Witness Protection Order, the Witness Protection Cell shall file a monthly follow-up report before the Competent Authority.

(10) In case, the Competent Authority finds that there is a need to revise the Witness Protection Order or an application is moved in this regard and upon completion of trial, a fresh Threat Analysis Report shall be called from the Additional Commissioner of Police or Deputy Superintendent of Police in charge of the concerned Police Sub-Division.

Types of Protection measures:

7. The witness protection measures ordered shall be proportionate to the threat and shall be for a specific duration not exceeding three months at a time. These may include,-

- (a) ensuring that witness and accused do not come face to face during investigation or trial;
- (b) monitoring of mail and telephone calls;
- (c) arrangement with the telephone company to change the witness's telephone number or assign him or her an unlisted telephone number;
- (d) installation of security devices in the witness's home such as security doors, CCTV, alarms, fencing etc.;
- (e) concealment of identity of the witness by referring to him or her with the changed name or alphabet;
- (f) emergency contact persons for the witness;
- (g) close protection, regular patrolling around the witness's house;
- (h) temporary Change of residence to a relative's house or a nearby town;
- (i) escort to and from the court and provision of Government vehicle or a State funded conveyance for the date of hearing;
- (j) Holding of in-camera trials;
- (k) allowing a support person to remain present during recording of statement and deposition;

(l) usage of specially designed vulnerable witness court rooms which have special arrangements like live links, one way mirrors and screens apart from separate passages for witnesses and accused, with option to modify the image of face of the witness and to modify the audio feed of the witness' voice, so that he or she is not identifiable;

(m) ensuring expeditious recording of deposition during trial on a day to day basis without adjournments;

(n) awarding time to time periodical financial aids or grants to the witness from Witness Protection Fund for the purpose of relocation, sustenance or starting a new vocation or profession, as may be considered necessary;

(o) any other form of protection measures considered necessary.

Monitoring and Review

8. Once the protection order is passed, the Competent Authority shall monitor its implementation and can review the same in terms of follow-up reports received in the matter. However, the Competent Authority shall review the Witness Protection Order on a quarterly basis based on the monthly follow-up report submitted by the Witness Protection Cell.

Protection of Identity

9. (1) During the course of investigation or trial of any offence, an application for seeking identity protection can be filed in Form – I before the Competent Authority through its Member Secretary.

Upon receipt of the application, the Member Secretary of the Competent Authority shall call for the Threat Analysis Report. The Competent Authority shall examine the witness or his family members or any other person it deems fit to ascertain whether there is necessity to pass an identity protection order.

(2) During the course of hearing of the application, the identity of the witness shall not be revealed to another person, which is likely to lead to the witness identification. The Competent Authority can thereafter, dispose of the application as per material available on record.

Once, an order for protection of identity of witness is passed by the Competent Authority, it shall be the responsibility of the Witness Protection Cell to ensure that identity of such witness or his or her family members including name or parentage or occupation or address or digital footprints are fully protected.

(3) As long as the identity of any witness is protected under an order of the Competent Authority, the Witness Protection Cell shall provide details of persons who can be contacted by the witness in case of emergency.

Change of Identity

10. In appropriate cases, where there is a request from the witness for change of identity and based on the Threat Analysis Report, a decision can be taken for conferring an identity to the witness by the Competent Authority.

Conferring new identities includes new name, profession, parentage and providing supporting documents acceptable by the Government Agencies. The new identities shall not deprive the witness from existing educational professional and property rights.

Relocation of Witness

11. In appropriate cases, where there is a request from the witness for relocation and based on the Threat Analysis Report, a decision can be taken for relocation of the witness by the Competent Authority.

The Competent Authority may pass an order for witness relocation to a safer place within the State or territory of the Indian Union keeping in view the safety, welfare and wellbeing of the witness. The expenses shall be borne from the Witness Protection Fund.

Witness to be apprised of the scheme

12. The Investigating Officer and the Hon'ble Court shall inform witnesses about the existence of Witness Protection Scheme and its salient features.

Confidentiality and preservation of records

13. All stakeholders including the Police, the Prosecution Department, Court Staff, Lawyers from both sides shall maintain full confidentiality and shall ensure that under no circumstance, any record, document or information in relation to the proceedings under this scheme shall be shared with any person in any manner except with the approval of Trial Court or Appellate Court and that too, on a written order.

All the records pertaining to proceedings under this scheme shall be preserved till such time the related trial or appeal thereof is pending before a Court of Law. After one year of disposal of the last Court proceedings, the hard copy of the records can be weeded out by the Competent Authority after preserving the scanned soft copies of the same.

Recovery of expenses

14. In case the witness has lodged a false complaint, the Home Department of the concerned Government can initiate proceedings for recovery of the expenditure incurred from the Witness Protection Fund. These expenses shall be recovered as arrears in land revenue.

Review

15. In case the witness or the police authorities are aggrieved by the decisions of the Competent Authority, a review application may be filed before the Competent Authority within 15 days of passing of the orders by the Competent Authority and the decision of Competent Authority on such review application shall be final and no appeal shall lie against such order before any authority.

AJAY TEWARI,
Additional Chief Secretary to the Government of Assam,
Home & Political Department, Dispur.

FORM - I

(See Clause – 5, 9)

Assam Witness Protection Scheme, 2024

Witness Protection Application

To

The Competent
Authority
District.....
Application for (Tick)

- Witness Protection
- Witness
Identity
Protection
- New Identity
- Witness Relocation

Particulars of the Witness (Fill in CAPITAL LETTERS)	
Name	
Date of Birth and Age	
Gender (Male / Female / Transgender)	
Father / Mother name	

Residential Address	
Mobile Number	
Email ID	
Aadhar Number (attach a self attested copy)	
Any other Government ID (voter ID / PAN / Driving license / Other) [attach a self attested copy]	
Name and details of the family member(s) of the victim who are facing threats (including self)	

Particulars of the case	
FIR number	
Police station	
Sections and Act(s) involved	
Year of the FIR	
GDE or daily diary number (if FIR not yet registered)	
CR case number (in complaint cases to magistrate)	
Particulars of the Accused (if known / available)	
Name	
Father / mother name	
Address	
Mobile Number	
Email ID	
Particulars of the person who is giving or suspected to be giving threats	
Name	
Father name	
Address	
Mobile number	
Email	
Other details known (if any)	
Threat Perception	
Nature of the threat perception. Please give a brief of the threat received in the matter with specific date, place, mode and words used.	
Types of the witness protection measures prayed for by the witness	
Please give details of what kind of protection is prayed for.	
Details of the urgent / immediate witness protection measures required, if any.	

Note: Witnesses can use extra sheets, if needed and attach with the application.

UNDERTAKING

- (1) I shall fully cooperate with the competent authority, department of home and the witness protection cell.
- (2) I certify that the information provided by me is correct to the best of my knowledge and belief.
- (3) I understand that if the information filed by me is found incorrect, competent authority reserves the right to recover the expenses incurred on me from the witness protection fund.

Name of the Witness:

Signature:

Date:

Place:

FORM -II

{See Clause - 6(3)}

The Threat Analysis Report to be submitted by the District Head of the Police under the Assam Witness Protection Scheme, 2024

Particulars of the Witness (Fill in CAPITAL LETTERS)	
Name	
Date of Birth and Age	
Gender (Male /Female/ Transgender)	
Father/ Mother name	
Residential Address	
Mobile Number	
Email ID	
Aadhar Number (attach a attested copy)	
Any other Government ID (voter ID/PAN/Driving licence / Other [attach a self attached copy])	
Name and details of the family member(s) of the victim who are facing threats (including self)	
Particulars of the case	
FIR number	
Police station	
Sections and Act(s) involved	
Year of the FIR	
GDE or daily diary number (if FIR not yet registered)	
CR case number (in complaint case to magistrate)	
Particulars of the Accused (if known/available)	
Name	
Father/mother name	
Address	
Mobile Number	
Email ID	
Particulars of the person who is giving or suspected to be given threats	
Name	
Father name	
Address	
Mobile number	
Email	
Other details known (if any)	
Threat Perception and Analysis	
Nature of the threat perception. Please give a brief of the threat received in the	

matter with specific date, place, mode and words used.	
History of enmity (if any)	
Details of body injury causing death, grievous hurt, injury and threat of injury to property, reputation etc.	
Potential Vulnerabilities of the Witness	
Physical location of the Application	
Vulnerability with regard to gender issues i.e. threat of gender violence like acid attacks / physical /emotional / psychological abuse etc.	
Any social Vulnerability	
Possession of weapon by the threatening party	
Political patronage	
Socially dominate position of the threatening party	
Witness against gangsters or organized criminals	
Threat of contract killing or abduction	
Vulnerabilities on social media Extent of threat	
Categories of Witness as per Threat perception and Analysis	
Category 'A' : Where the threat extends to the life of a witness or his family members, during investigation /trial or thereafter.	
Category 'B' : Where the threat extends to safety, reputation or property of the witness or his family members, during the investigation/ trial or thereafter.	
Category 'C' : Where the threat is moderate and extends to harassment or intimidation of the witness or his family member's reputation or property, during the investigation/ trial or thereafter.	
Protection Measures Prayed or Recommended	
Please give details of what kind of protection is prayed for by the witness.	
Details of the Interim/ urgent / immediate witness protection measures required, if any	
Protection measures Suggested for the witness	
(please specify the approximate cost involved in each measure suggested)	
Note: The witness protection measures shall be proportionate to the threat analysis and shall be for a specific duration not exceeding 3 months at a time.)	

Ensuring that witness and accused do not come face to face during investigation or trial.	
Monitoring of mail and telephone calls	
Arrangement with the telephone company to change the witness's telephone number or assign him or her any unlisted telephone number	
Installation of security devices in the witness's home such as security doors, CCTV, alarms, fencing etc.	
Concealment of identity of the witness by referring to him/her with the changed name or alphabet.	
Emergency contact persons for the witness	
Close protection, regular patrolling around the witness's house	
Temporary Change of residence to a relative's house or a nearby town.	
Escort to and from the court and provision of Government vehicle or a state funded conveyance for the date of hearing	
Holding of in-camera trials	
Allowing a support person to remain present during recording of statement and deposition	
Usage of specially designed vulnerable witness court rooms which have special arrangements like live links, one way mirrors and screens apart from separate passages for witnesses and accused, with option to modify the image of face of the witness and to modify the audio feed of the witness' voice, so that he/she is not identifiable.	
Ensuring expeditious recording of deposition during trial on a day to day basis without adjournments.	
Awarding time to time periodical financial aids / grants to the witness from Witness Protection Fund for the purpose of re-location, sustenance or starting a new vocation/ profession, as may be considered necessary.	

Protection of Identity	
Change of Identity	
Relocation of Witness	

Signature with

Name :

Date :

Place :

Mobile :

Email :